



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2012 REGULAR SESSION

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SENATE BILL NO. 160

AS ENACTED

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FRIDAY, MARCH 30, 2012

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RECEIVED AND FILED  
DATE April 11, 2012  
5:58 p.m.  
ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY Mary Sue Nelson

AN ACT relating to communication.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 12.145 is amended to read as follows:

Notwithstanding any other statute to the contrary, an agency of state government shall use certified mail or registered mail only for correspondence or notifications that the Finance and Administration Cabinet determines, by promulgation of administrative regulations under KRS Chapter 13A, warrant the proof of receipt that those methods of delivery provide. Upon the approval of the Finance and Administrative Cabinet's administrative regulation, an agency of state government may use any method of governmental, commercial, or electronic delivery for any other correspondence or notification. (1) As used in this section:

(a) ~~"Certified mail" means mail service providing a receipt to the sender and a record of delivery at the office of address;~~

(b) ~~"Matter having intrinsic value" means mail matter including negotiable instruments, nonnegotiable instruments, money, jewelry, gems, precious metals and merchandise;~~

(c) ~~"Matter having no intrinsic value" means mail matter including, but not limited to, letters, files, records, summons, petitions and notices;~~

(d) ~~"Registered mail" means mail service providing added protection for valuable and important mail, plus evidence of mailing and delivery and indemnity in case of loss or damage;~~

(e) ~~"Return receipt requested" means mail service obtained at additional cost, providing a notice of receipt to the sender when registered or certified mail is delivered, showing to whom and date delivered, or to whom, date and address where delivered.~~

(2) ~~Any agency of state government which is required to post, forward or otherwise send any summons, petition, notice or other matter having no intrinsic value shall~~

1       ~~use certified mail where required by law.]~~

2       ➔Section 2. KRS 446.010 is amended to read as follows:

3       As used in the statute laws of this state, unless the context requires otherwise:

- 4       (1) "Action" includes all proceedings in any court of this state;
- 5       (2) "Animal" includes every warm-blooded living creature except a human being;
- 6       (3) "Attorney" means attorney-at-law;
- 7       (4) "Bequeath" and "devise" mean the same thing;
- 8       (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal
- 9       estate, or both;
- 10      (6) "Case plan" means an individualized accountability and behavior change strategy
- 11      for supervised individuals that:
  - 12      (a) Targets and prioritizes the specific criminal risk factors of the individual
  - 13      based upon his or her assessment results;
  - 14      (b) Matches the type and intensity of supervision and treatment conditions to the
  - 15      individual's level of risk, criminal risk factors, and individual characteristics,
  - 16      such as gender, culture, motivational stage, developmental stage, and learning
  - 17      style;
  - 18      (c) Establishes a timetable for achieving specific behavioral goals, including a
  - 19      schedule for payment of victim restitution, child support, and other financial
  - 20      obligations; and
  - 21      (d) Specifies positive and negative actions that will be taken in response to the
  - 22      supervised individual's behaviors;
- 23      (7) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- 24      (8) "Certified mail" means any method of governmental, commercial, or electronic
- 25      delivery that allows a document or package to have proof of:
  - 26      (a) Sending the document or package;
  - 27      (b) The date the document or package was delivered or delivery was attempted;

1           and

2           (c) The signature of the receipt of the document or package;

3   (9) "Company" may extend and be applied to any corporation, company, person,  
4       partnership, joint stock company, or association;

5   ~~(10)~~~~(9)~~ "Corporation" may extend and be applied to any corporation, company,  
6       partnership, joint stock company, or association;

7   ~~(11)~~~~(10)~~ "Criminal risk factors" are characteristics and behaviors that, when addressed  
8       or changed, affect a person's risk for committing crimes. The characteristics may  
9       include but are not limited to the following risk and criminogenic need factors:  
10      antisocial behavior; antisocial personality; criminal thinking; criminal associates;  
11      dysfunctional family; low levels of employment or education; poor use of leisure  
12      and recreation; and substance abuse;

13   ~~(12)~~~~(11)~~ "Cruelty" as applied to animals includes every act or omission whereby  
14      unjustifiable physical pain, suffering, or death is caused or permitted;

15   ~~(13)~~~~(12)~~ "Directors," when applied to corporations, includes managers or trustees;

16   ~~(14)~~~~(13)~~ "Domestic," when applied to a corporation, partnership, business trust, or  
17      limited liability company, means all those incorporated or formed by authority of  
18      this state;

19   ~~(15)~~~~(14)~~ "Domestic animal" means any animal converted to domestic habitat;

20   ~~(16)~~~~(15)~~ "Evidence-based practices" means policies, procedures, programs, and  
21      practices proven by scientific research to reliably produce reductions in recidivism  
22      when implemented competently;

23   ~~(17)~~~~(16)~~ "Federal" refers to the United States;

24   ~~(18)~~~~(17)~~ "Foreign," when applied to a corporation, partnership, business trust, or  
25      limited liability company, includes all those incorporated or formed by authority of  
26      any other state;

27   ~~(19)~~~~(18)~~ "Generally accepted accounting principles" are those uniform minimum

1 standards of and guidelines to financial accounting and reporting as adopted by the  
 2 National Council on Governmental Accounting, under the auspices of the  
 3 Municipal Finance Officers Association and by the Financial Accounting Standards  
 4 Board, under the auspices of the American Institute of Certified Public  
 5 Accountants;

6 (20)~~[(19)]~~ "Graduated sanction" means any of a wide range of accountability measures  
 7 and programs for supervised individuals, including but not limited to electronic  
 8 monitoring; drug and alcohol testing or monitoring; day or evening reporting  
 9 centers; restitution centers; disallowance of future earned compliance credits;  
 10 rehabilitative interventions such as substance abuse or mental health treatment;  
 11 reporting requirements to probation and parole officers; community service or work  
 12 crews; secure or unsecure residential treatment facilities or halfway houses; and  
 13 short-term or intermittent incarceration;

14 (21)~~[(20)]~~ "Humane society," "society," or "Society for the Prevention of Cruelty to  
 15 Animals," means any nonprofit corporation, organized under the laws of this state  
 16 and having as its primary purpose the prevention of cruelty to animals;

17 (22)~~[(21)]~~ "Issue," as applied to the descent of real estate, includes all the lawful lineal  
 18 descendants of the ancestors;

19 (23)~~[(22)]~~ "Land" or "real estate" includes lands, tenements, and hereditaments and all  
 20 rights thereto and interest therein, other than a chattel interest;

21 (24)~~[(23)]~~ "Legatee" and "devisee" convey the same idea;

22 (25)~~[(24)]~~ "May" is permissive;

23 (26)~~[(25)]~~ "Month" means calendar month;

24 (27)~~[(26)]~~ "Oath" includes "affirmation" in all cases in which an affirmation may be  
 25 substituted for an oath;

26 (28)~~[(27)]~~ "Owner" when applied to any animal, means any person having a property  
 27 interest in such animal;

1 ~~(29)~~[(28)] "Partnership" includes both general and limited partnerships;

2 ~~(30)~~[(29)] "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan  
3 and urban-county government correctional officers, marshals, policemen, and other  
4 persons with similar authority to make arrests;

5 ~~(31)~~[(30)] "Penitentiary" includes all of the state penal institutions except the houses of  
6 reform;

7 ~~(32)~~[(31)] "Person" may extend and be applied to bodies-politic and corporate, societies,  
8 communities, the public generally, individuals, partnerships, joint stock companies,  
9 and limited liability companies;

10 ~~(33)~~[(32)] "Personal estate" includes chattels, real and other estate that passes to the  
11 personal representative upon the owner dying intestate;

12 ~~(34)~~[(33)] "Pretrial risk assessment" means an objective, research-based, validated  
13 assessment tool that measures a defendant's risk of flight and risk of anticipated  
14 criminal conduct while on pretrial release pending adjudication;

15 ~~(35)~~[(34)] "Registered mail" means any governmental, commercial, or electronic  
16 method of delivery that allows a document or package to have:

17 (a) Its chain of custody recorded in a register to enable its location to be  
18 tracked;

19 (b) Insurance available to cover its loss; and

20 (c) The signature of the recipient of the document or package available to the  
21 sender;

22 ~~(36)~~ "Regular election" means the election in even-numbered years at which members of  
23 Congress are elected and the election in odd-numbered years at which state officers  
24 are elected;

25 ~~(37)~~[(35)] "Risk and needs assessment" or "validated risk and needs assessment" means  
26 an actuarial tool scientifically proven to determine a person's risk to reoffend and  
27 criminal risk factors, that when properly addressed, can reduce that person's

1       likelihood of committing future criminal behavior;

2       ~~(38)~~~~(36)~~ "Shall" is mandatory;

3       ~~(39)~~~~(37)~~ "State" when applied to a part of the United States, includes territories,

4       outlying possessions, and the District of Columbia; "any other state" includes any

5       state, territory, outlying possession, the District of Columbia, and any foreign

6       government or country;

7       ~~(40)~~~~(38)~~ "State funds" or "public funds" means sums actually received in cash or

8       negotiable instruments from all sources unless otherwise described by any state

9       agency, state-owned corporation, university, department, cabinet, fiduciary for the

10      benefit of any form of state organization, authority, board, bureau, interstate

11      compact, commission, committee, conference, council, office, or any other form of

12      organization whether or not the money has ever been paid into the Treasury and

13      whether or not the money is still in the Treasury if the money is controlled by any

14      form of state organization, except for those funds the management of which is to be

15      reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605,

16      and 42.615;

17      ~~(41)~~~~(39)~~ "Supervised individual" means an individual placed on probation by a court or

18      serving a period of parole or post-release supervision from prison or jail;

19      ~~(42)~~~~(40)~~ "Sworn" includes "affirmed" in all cases in which an affirmation may be

20      substituted for an oath;

21      ~~(43)~~~~(41)~~ "Treatment" when used in a criminal justice context, means targeted

22      interventions that focus on criminal risk factors in order to reduce the likelihood of

23      criminal behavior. Treatment options may include but shall not be limited to

24      community-based programs that are consistent with evidence-based practices;

25      cognitive-behavioral programs; faith-based programs; inpatient and outpatient

26      substance abuse or mental health programs; and other available prevention and

27      intervention programs that have been scientifically proven to produce reductions in

1 recidivism when implemented competently. "Treatment" does not include medical  
2 services;

3 ~~(44)~~~~[(42)]~~ "United States" includes territories, outlying possessions, and the District of  
4 Columbia;

5 ~~(45)~~~~[(43)]~~ "Vacancy in office," or any equivalent phrase, means such as exists when  
6 there is an unexpired part of a term of office without a lawful incumbent therein, or  
7 when the person elected or appointed to an office fails to qualify according to law,  
8 or when there has been no election to fill the office at the time appointed by law; it  
9 applies whether the vacancy is occasioned by death, resignation, removal from the  
10 state, county or district, or otherwise;

11 ~~(46)~~~~[(44)]~~ "Violate" includes failure to comply with;

12 ~~(47)~~~~[(45)]~~ "Will" includes codicils; "last will" means last will and testament;

13 ~~(48)~~~~[(46)]~~ "Year" means calendar year;

14 ~~(49)~~~~[(47)]~~ "City" includes town;

15 ~~(50)~~~~[(48)]~~ Appropriation-related terms are defined as follows:

16 (a) "Appropriation" means an authorization by the General Assembly to expend,  
17 from public funds, a sum of money not in excess of the sum specified, for the  
18 purposes specified in the authorization and under the procedure prescribed in  
19 KRS Chapter 48;

20 (b) "Appropriation provision" means a section of any enactment by the General  
21 Assembly which is not provided for by KRS Chapter 48 and which authorizes  
22 the expenditure of public funds other than by a general appropriation bill;

23 (c) "General appropriation bill" means an enactment by the General Assembly  
24 that authorizes the expenditure of public funds in a branch budget bill as  
25 provided for in KRS Chapter 48;

26 ~~(51)~~~~[(49)]~~ "Mediation" means a nonadversarial process in which a neutral third party  
27 encourages and helps disputing parties reach a mutually acceptable agreement.



1 Recommendations by mediators are not binding on the parties unless the parties  
2 enter into a settlement agreement incorporating the recommendations;

3 ~~(52)~~~~(50)~~ "Biennium" means the two (2) year period commencing on July 1 in each  
4 even-numbered year and ending on June 30 in the ensuing even-numbered year;

5 ~~(53)~~~~(51)~~ "Branch budget bill" or "branch budget" means an enactment by the General  
6 Assembly which provides appropriations and establishes fiscal policies and  
7 conditions for the biennial financial plan for the judicial branch, the legislative  
8 branch, and the executive branch, which shall include a separate budget bill for the  
9 Transportation Cabinet; and

10 ~~(54)~~~~(52)~~ "AVIS" means the automated vehicle information system established and  
11 maintained by the Transportation Cabinet to collect titling and registration  
12 information on vehicles and boats and information on holders of motor vehicle  
13 operator's licenses and personal identification cards.

14 ➔Section 3. KRS 281.625 is amended to read as follows:

15 (1) (a) Upon the filing of an application for a certificate or permit or for amendment  
16 or for sale, transfer, or lease, or for change in route, or for abandonment of a  
17 certificate or permit, the department shall, within a reasonable time, fix the  
18 time and place for a hearing.

19 (b) *A person who intends to file an application under paragraph (a) of this*  
20 *subsection shall publish notice of the application in accordance with*  
21 *Section 4 of this Act*~~[The department shall mail written notice of the hearing,~~  
22 ~~and the right to file a protest, in accordance with the regulations of the~~  
23 ~~department and KRS Chapter 13B, to the applicant and every authorized~~  
24 ~~carrier, including railroads, serving any part of the route proposed to be served~~  
25 ~~or abandoned by the applicant. The department may also give similar notice to~~  
26 ~~any other person, who, in the opinion of the department, may be interested in~~  
27 ~~or affected by the granting of the application].~~

- 1 (2) If a protest is filed, the department shall hold an administrative hearing on the  
2 application. The department, in its discretion, may hold a hearing if no protest is  
3 filed. Hearings conducted under this section shall be conducted in accordance with  
4 KRS Chapter 13B. Any person having interest in the subject matter may, in  
5 accordance with the regulations prescribed therefor, file a protest to the granting, in  
6 whole or in part, of the application.
- 7 (3) If the application is for a nonprofit bus certificate and no protest is filed, the  
8 department may grant the certificate without a hearing, provided the provisions of  
9 subsection (3) of KRS 281.630 or KRS 281.801 are met.
- 10 (4) The department may, if the application is solely for rights previously granted by the  
11 Interstate Commerce Commission, dispense with the holding of a hearing.
- 12 (5) Persons engaged in the transportation in interstate commerce in Kentucky of any  
13 commodity exempted by the Interstate Commerce Commission from regulation  
14 shall be subject to the same Kentucky requirements and regulations as if the persons  
15 were transporting commodities not exempted by the Interstate Commerce  
16 Commission, except that in lieu of filing or registering with the department a  
17 certificate of public convenience and necessity as issued by the Interstate Commerce  
18 Commission, the persons shall apply to the department for a permit or certificate  
19 restricted to interstate commerce and the permit or certificate may be issued without  
20 a hearing.
- 21 (6) If an applicant has been granted an irregular route common carrier certificate by the  
22 Interstate Commerce Commission, the department may grant an irregular route  
23 common carrier certificate restricted to operation in interstate commerce, and on the  
24 granting of same, it shall notify the Department of Revenue of the applicant's  
25 operation.
- 26 (7) The department may grant a permit, upon application, to operate a U-drive-it  
27 without the holding of a hearing.

1        ➔ SECTION 4. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO  
2 READ AS FOLLOWS:

3        (1) Notwithstanding the provisions of KRS 13B.050, any person, partnership,  
4        corporation, limited liability corporation, or any other entity applying for a  
5        certificate in accordance with Section 3 of this Act shall advertise his or her  
6        intention to apply for a certificate by using one (1) of the following methods:

7        (a) Publication of a public notice under KRS 424.130(1)(b). The applicant shall  
8        cause the notice to be published once a week for three (3) consecutive weeks  
9        in a prominent manner in a newspaper of general circulation in the  
10       proposed territory, the first publication to be made within seven (7) days of  
11       the filing of the application with the cabinet; or

12       (b) Correspondence by electronic mail with every existing certificate holder  
13       affected by the application giving notice of the intention to apply for a  
14       certificate.

15       (2) The notice required under this section shall conform in all material respects to  
16       the following requirements:

17       (a) The notice shall state:

18            1. The name and address of the applicant if the applicant is an  
19            individual;

20            2. The name and address of each partner and the name and address of  
21            the business if the applicant is a partnership;

22            3. The name and address of each principal officer and director and the  
23            name and business address of the corporation if the applicant is a  
24            corporation; or

25            4. The name and address of each member if the applicant is a limited  
26            liability corporation;

27        (b) The notice shall specifically describe the proposed route or territory for

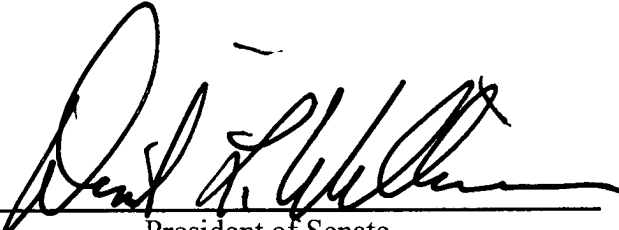
1       which the certificate is sought and the type of certificate being requested;

2       and

3       (c) The notice shall state the date the application will be filed and shall contain  
4       the following statement: "Any person, association, corporation, or LLC  
5       who has an interest in the granting of a certificate in the territory sought to  
6       be served may protest the granting of the certificate by writing the  
7       Transportation Cabinet, Office of Legal Services, 200 Mero Street,  
8       Frankfort, Kentucky 40622, within thirty (30) days of the date of legal  
9       publication."

10      ➔Section 5. 2011 Ky. Acts ch. 10, sec. 4 is repealed.

11      ➔Section 6. KRS 186.162 and 186.1722, as created or amended by 2011 Ky. Acts  
12 ch. 10, relating to an I Support Veterans special license plate, shall be effective on the  
13 normal effective date for the legislation enacted at the 2012 Regular Session of the  
14 General Assembly.

  
\_\_\_\_\_  
President of Senate

  
\_\_\_\_\_  
Speaker-House of Representatives

Attest:   
\_\_\_\_\_  
Chief Clerk of Senate

Approved   
\_\_\_\_\_  
Governor

Date 4-11-12